

DOCKET FILE COPY ORIGINAL

ORIGINAL

Before the
FEDERAL COMMUNICATION COMMISSION
Washington, DC 20554

In the Matter of)
)
Deployment of Wireline Services Offering)
Advanced Telecommunications Capability)
)
Implementation of the)
Local Competition Provisions)
of the Telecommunications Act of 1996)

CC Docket No. 98-147

CC Docket No. 96-98

RECEIVED

APR - 5 2000

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

REPLY COMMENTS OF MCI WORLDCOM, INC.

Richard S. Whitt
Cristin L. Flynn
MCI WorldCom, Inc.
1801 Pennsylvania Ave., NW
Washington DC 20006
(202)887-3845

Dated: April 5, 2000

No. of Copies rec'd 075
List ABCDE

**Before the
FEDERAL COMMUNICATION COMMISSION
Washington, DC 20554**

In the Matter of)	
)	
Deployment of Wireline Services Offering)	
Advanced Telecommunications Capability)	CC Docket No. 98-147
)	
Implementation of the)	
Local Competition Provisions)	CC Docket No. 96-98
of the Telecommunications Act of 1996)	

REPLY COMMENTS OF MCI WORLDCOM, INC.

MCI WORLDCOM, Inc. (MCI WorldCom), by its attorneys, hereby files this reply to the comments filed on the petitions seeking clarification and reconsideration of the Third Report and Order in CC Docket No. 98-147 and Fourth Report and Order in CC Docket 96-98¹ (Order or Line Sharing Order), issued by the Commission on December 9, 1999 in the above-captioned proceedings.

MCI WorldCom respectfully requests that the Commission affirm that the Line Sharing Order permits CLEC to CLEC line sharing, and requires ILECs to permit CLECs to perform the loop tests necessary in any line sharing environment. The Commission is also requested to continue to require ILECs to condition all lines for xDSL, and to make a specific showing on a state by state basis in the instance an ILEC claims a specific line cannot be conditioned. The Commission should

¹ In the Matter of Deployment of Wireline Services Offering Advanced Telecommunications Capability and Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, Third Report and Order in CC Docket No. 98-147 and Fourth Report and Order in CC Docket No. 96-98, CC Docket Nos. 98-147, 96-98, FCC 99-355 (released December 9, 1999).

also clarify that the Line Sharing Order does not permit ILECs unilaterally or by an alleged "agreement" to modify or extend the deployment deadline for line sharing. Additionally, the Commission should not be swayed to reconsider the Line Sharing Order's requirement that older technology be phased out, in order to facilitate advanced services deployment. Lastly, the Commission should affirm its corollary presumption that once a state commission deems a new technology deployable in one state, it can be deployed in all states.

I. THE COMMISSION NEEDS TO STATE AFFIRMATIVELY THAT CLEC-TO-CLEC LINE SHARING IS EXPRESSLY PERMITTED UNDER THE LINE SHARING ORDER

Despite ILECs' statements to the contrary, the Line Sharing Order permits CLEC-to-CLEC line sharing.² Although some ILECs recognize the implicit permission for CLEC-to-CLEC line sharing,³ ILECs have nonetheless refused to facilitate or implement it. It is for this reason that a stronger Commission statement is necessary, that affirms that ILECs can take no action that hinders CLEC-to-CLEC line sharing, or weakens their ability to utilize the UNE platform. In particular, ILECs are required to perform the necessary cross-connects, and troubleshooting and trouble-reporting functions, that make CLEC-to-CLEC line sharing possible. As NorthPoint correctly asserts, collocation is an expensive and drawn-out process,⁴ one which makes serving the consumer mass market difficult. The Commission must give clear direction to ILECs that this line sharing scenario is expressly permitted, and that ILECs must not hinder in any way the utilization of the UNE platform.

² Line Sharing Order, at ¶ 73 n.163.

³ Comments of Bell Atlantic, CC Docket Nos. 98-147, 96-98, filed March 22, 2000, at 7.

⁴ Comments of NorthPoint Communications, Inc., CC Docket Nos. 98-147, 96-98, filed March 22, 2000, at 3.

II. IN LIGHT OF THE LACK OF CONSENSUS REGARDING THE APPROPRIATE MEASURE FOR LOOP QUALIFICATION STANDARDS, THE COMMISSION SHOULD REFRAIN FROM IMPOSING ANY STANDARD AT THIS TIME

MCI WorldCom has argued that the Commission should not establish a bright line standard for loop qualification, and should reject specifically the request of ILECs to set that standard at 18,000 feet. AT&T suggests that the Commission base its standard not on loop length, but on "the loss characteristics of the loop between the customer's premises and the central office switch or other intermediate port."⁵ MCI WorldCom agrees that the loss characteristics of the loop can affect the ability of certain loops to be adapted for xDSL service. However, the Commission should affirm the Line Sharing Order to require that an ILEC make a showing to a state commission in the event it claims that a loop cannot be provisioned for xDSL services, especially those under 18,000 feet in length.⁶ In the event the Commission determines that modification is necessary, it is requested that the Commission preserve the present rule while additional investigation is conducted as to the most efficient and appropriate method of loop qualification.

III. THE ILECS HAVE FAILED TO PUT FORTH ANY COMPELLING ARGUMENTS TO SUPPORT THEIR CONTENTION THAT CLECS ARE NOT ENTITLED TO ACCESS THE ENTIRE LOOP FOR METALLIC LOOP TESTING PURPOSES

GTE and Bell Atlantic both contend that data CLECs are not entitled to perform metallic loop testing.⁷ However, and as Covad points out, CLECs should be granted the right to perform the

⁵ Comments of AT&T, CC Docket Nos. 98-147, 96-98, filed March 22, 2000, at 13.

⁶ Line Sharing Order, at ¶ 86.

⁷ Comments of GTE, CC Docket Nos. 98-147, 96-98, filed March 22, 2000, at 3; Bell Atlantic at 3, 4.

same type of testing as the ILECs.⁸ The ILECs have not made any indication that they are willing, or able, to forego metallic loop testing, as it is the most effective means of evaluating a customer's line, in both the broad and narrow band frequencies. The ILECs fail to demonstrate that any reasonable alternatives to metallic loop testing exist, especially those that test only the high frequency portion of the loop, nor do the ILECs suggest they will test only on the voice grade frequencies. The ILECs also fail to demonstrate that customers (who benefit from line sharing) would object to having their voice and data providers work together to eliminate any problem on the customer's loop. Tests limited to the high-frequency portion of the loop are insufficient because they fail to diagnose adequately and completely all problems that could affect a data customer's service, and which are easily and efficiently diagnosed with metallic loop testing. Accordingly, the Commission should continue to hold that metallic loop testing should be permitted specifically under the Line Sharing Order for both CLECs and ILECs.⁹ Otherwise, it is the customer ultimately who will suffer.

IV. THE COMMISSION SHOULD AFFIRM THE REQUIREMENTS OF THE LINE SHARING ORDER THAT COMPEL ILECS TO UPGRADE THEIR NETWORKS ONCE THE TECHNOLOGY IS PRESUMED DEPLOYABLE IN ANY JURISDICTION

Under section 51.230(c) of the rules adopted under the Line Sharing Order, the Commission creates a rebuttable presumption that "successful deployment of a technology elsewhere without significantly degrading the performance of other services" compels deployment of that technology

⁸ Comments of Covad Communications, Inc., CC Docket Nos. 98-147, 96-98, filed March 22, 2000 at 7.

⁹ Line Sharing Order, at ¶ 113.

in other jurisdictions.¹⁰ ILECs can rebut this presumption by making a showing before a state commission that the specific conditions in that situation do not permit deployment of the technology. However, as the Commission clearly stated in the Order, "the designation by this Commission of a technology as generally presumed acceptable for deployment is irrebuttable."¹¹

GTE argues that a "standards process produces certainty, making an entirely reasonable trade-off between a modest potential delay in deployment of a new technology and the avoidance of disruption to existing users."¹² Of course, this position fails to address the fact that certain design "standards" and technology are over 20 years old, and that the intent and purpose of the Commission's ruling is to promote the rapid and ubiquitous deployment of advanced services. By requiring ILECs to deploy new technology nationwide once a state commission has found it operational, customers will have access to advanced services on a broader and more ubiquitous basis. So-called "market forces" (which in reality amount to unilateral decision-making by monopolists) have not brought about the sunset of analog T1s, which effectively block advanced services. Thus, GTE's position virtually guarantees that customers will not be able to obtain the advanced services that they will inevitably demand in the future. Accordingly, the Commission correctly ruled that once a state commission deems a technology deployable in that state, it is presumed to be deployed nationwide. If CLECs were required to "start from scratch in each jurisdiction once acceptability of loop technology had been demonstrated before one or more state commissions" then state

¹⁰ Line Sharing Order, at ¶ 198-99.

¹¹ Id., at ¶ 199 n.453.

¹² GTE, at 7.

commissions would be faced with "redundant demonstrations of acceptability in each state."¹³ As the Commission recognized in the Line Sharing Order, ILECs always have the ability to make an application to a particular state commission for relief in the event a particular upgrade requirement will cause extreme harm to the ILECs' network.¹⁴ Accordingly, the Commission should reject any request to modify the already-existing requirement that new technology deemed deployable by a state commission must be deployed in all states.

V. THE COMMISSION SHOULD NOT MODIFY THE LINE SHARING ORDER TO PERMIT ANOTHER 180 DAYS TO IMPLEMENT CLEC-TO-CLEC LINE SHARING

The Line Sharing Order requires that ILECs be prepared to deploy line sharing within 180 days of the issuance of the Order.¹⁵ It is MCI WorldCom's position that the ILECs should have been working to deploy CLEC-to-CLEC line sharing since the issuance of the Order. However, if the Commission concludes that an ILEC has carried its substantial burden to justify any extension, the extension should be no longer than necessary, and the Commission should impose appropriate sanctions if any failure to meet the current deadline is due in whole or in part to insufficient commitment by the ILEC.

¹³ Broadspan, at 3.

¹⁴ Line Sharing Order, at ¶ 198-200.

¹⁵ Line Sharing Order, at ¶ 13.

VI. CONCLUSION

For the reasons stated above, the Commission should grant the relief sought in the underlying petition for Reconsideration and Clarification of MCI WorldCom, Inc., and further developed in the Comments of MCI WorldCom, Inc.

Respectfully submitted,

MCI WORLDCOM INC.

A handwritten signature in black ink, appearing to read "Richard S. Whitt", is written over a horizontal line.

Richard S. Whitt

Cristin L. Flynn

Its Attorneys

1801 Pennsylvania Ave., NW

Washington DC 20006

(202)887-3845

April 5, 2000

CERTIFICATE OF SERVICE

I, Denise E. Akoto, hereby certify that I have this 5th day of April, 2000, sent a copy of the foregoing "Reply Comments of MCI WorldCom, Inc." by hand delivery, to the following:

Magalie Roman Salas (one original and four copies)
Office of the Secretary
Federal Communications Commission
The Portals
445 12th Street, S.W.
Room TW-A325
Washington, D.C. 20554

The Honorable William E. Kennard
Chairman
Federal Communications Commission
The Portals
445 12th Street, S.W.
Washington, D.C. 20554

The Honorable Susan P. Ness
Federal Communications Commission
The Portals
445 12th Street, S.W.
Washington, D.C. 20554

The Honorable Harold W. Furchtgott-Roth
Federal Communications Commission
The Portals
445 12th Street, S.W.
Washington, D.C. 20554

The Honorable Michael K. Powell
Federal Communications Commission
The Portals
445 12th Street, S.W.
Washington, D.C. 20554

The Honorable Gloria Tristani
Federal Communications Commission
The Portals
445 12th Street, S.W.
Washington, D.C. 20554

Lawrence Strickling
Chief, Common Carrier Bureau
Federal Communications Commission
The Portals
445 12th Street, S.W.
Washington, D.C. 20554

Michelle Carey
Chief, Policy and Program Planning Division
Common Carrier Bureau
Federal Communications Commission
The Portals
445 12th Street, S.W.
Washington, D.C. 20554

John W. Berresford
Industry Analysis
Common Carrier Bureau
Federal Communications Commission
The Portals
445 12th Street, S.W.
Room 5-C327
Washington, D.C. 20554

Staci Pies
Common Carrier Bureau
Federal Communications Commission
The Portals
445 12th Street, S.W.
Washington, D.C. 20554

International Transcription Service, Inc.
CY-B40000
445 12th Street, S.W.
Washington, D.C. 20554

Stephen C. Garavito
AT&T Corporation
Room 1131M1
295 N. Maple Avenue
Basking Ridge, NJ 07920

Jason Oxman
Senior Counsel
Covad Communications Company
600 14th Street, NW
Suite 750
Washington, DC 20005

Anthony M. Black
Swidler Berlin Shereff Friedman, LLP
3000 K Street, NW
Suite 300
Washington, DC 20007

Jeffrey S. Linder
Wiley, Rein, & Fielding
1776 K Street, NW
Washington, DC 20006

Donna Epps
Bell Atlantic
1320 North Court House Road
Eighth Floor
Arlington, VA 22201

Jonathan Askin
General Counsel
Association for Local Telecommunications
Services
888 17th Street, NW
Suite 900
Washington, DC 20006

Roger K. Toppins
SBC Communications Inc.
1401 Eye Street, NW
11th Floor
Washington, DC 20005

M. Robert Sutherland
Stephen L. Earnest
BellSouth Corporation
1155 Peachtree Street, NE
Suite 1700
Atlanta, GA 30306-3610

Larry A. Blosser
Blumenfeld & Cohen
Technology Law Group
1625 Massachusetts Avenue, NW
Suite 300
Washington, DC 20036

Michael Olsen
NorthPoint Communications, Inc.
303 Second Street, South Tower
San Francisco, CA 94107

Laura H. Phillips
Dow, Lohnes & Albertson, PLLC
1200 New Hampshire Avenue, NW
Suite 800
Washington, DC 20036

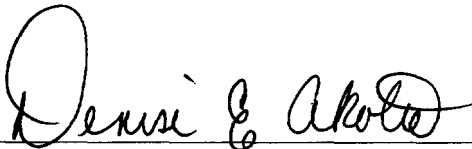
Carol Ann Bischoff
The Competitive Telecommunications
Association
1900 M Street, NW
Suite 800
Washington, DC 20036

James J. Valentino
Mintz, Levin, Cohn, Ferris, Glovsky & Popeo,
PC
701 Pennsylvania Avenue, NW
Suite 900
Washington, DC 20004

Jeffrey Blumenfeld
Rhythms NetConnections, Inc.
6933 South Revere Parkway
Englewood, CO 80112

A. Richard Metzger, Jr.
Lawler, Metzger & Milkman, LLC
1909 K Street, NW
Suite 820
Washington, DC 20006

Rodney L. Joyce
Shook, Hardy & Bacon LLP
600 14th Street, NW
Washington, DC 20005-2004


Denise E. Akoto